



00711-1 11:15
03 JAN 16 11:4:57

January 8, 2008

Mr. Theodore L. Willke Associate Administrator
Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
Attention: PHH-1
U.S. Department of Transportation
1200 New Jersey Avenue, SE Building, E 21317
Washington, DC 20590

DEPT. OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
2008 FEB -1 A 11:15
2008 FEB -1 A 11:15

RE: Petition for class change of Other Regulated Materials-D (ORM-D)

Dear Mr. Willke:

FedEx Express is the world's largest express transportation company and transports more dangerous goods shipments than any other air carrier. FedEx Express is recommending the elimination of the Department of Transportation (DOT) 49 Code of Federal Regulations (CFR) §173.144 class Other Regulated Material-D (ORM-D) and, instead have these materials assigned to class 9 in accordance with other world wide recognized regulations. FedEx Express contends the current class ORM-D identification poses a safety concern as this material is inadvertently offered with the minimal requirements for ground transportation. Further, even when properly prepared for air transportation it is difficult to recognize for inspection and acceptance.

Issue

The proper shipping name "consumer commodity" is ambiguous. It does not necessarily indicate an item is regulated. ORM-Ds do not require any specification package marking, hazard or handling labels, UN or ID number. ORM-Ds only require a shipper's declaration when offered for air transportation. Even when the marking is offered in a label form (small blue square) it does not communicate by shape or color any hazard awareness.

While shippers and ground carriers of class ORM-D may not have any acceptance problems they also have no inspection requirements identifying same. Such a carrier could have an entire tractor trailer load of ORM-D freight without any manifest, placarding or shipping paper requirements. The packages are only required to be marked with "Consumer Commodity and ORM-D" somewhere on the outer package. From a practical standpoint, the freight is treated and transported as non hazardous.

As you know, when offered for air transportation the word "Air" must be added to the ORM-D marking and a shipping paper provided. This is a recognition problem for air carrier personnel. It is more common where a shipper offers an ORM-D prepared for ground transportation for air carriage. Many shippers mistakenly think there are no additional requirements. Further, shippers reuse boxes marked Consumer Commodity, ORM-D, however, the contents may or may not be regulated for air transportation.

The Federal Aviation Administration continues to hold air carriers and shippers accountable for the acceptance and offering of packages with minimal markings when offered for air transportation. Thus, these difficult and challenging responsibilities are left up to air carrier personnel to recognize this otherwise unregulated freight before placement on an aircraft.

Additionally, we are both aware of the proposed UN recommendation concerning limited quantities and consumer commodities for a unique label and marking when these items are offered for air transportation. If adopted, the problem and confusion of class ORM-D prepared and offered for ground transportation and inadvertently transported by air, will remain.

Recommended Change

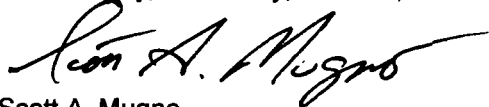
Handling and loading personnel are trained to look for standardized hazard class labels. With all the industrial markings on packages today it is difficult for them to distinguish a marking in a rectangle. FedEx Express therefore recommends requiring the universally recognized diamond shaped hazard label. PHMSA should harmonize Consumer Commodities with the ICAO regulations which require a class 9 label, an ID 8000 and the proper shipping name markings. This would increase the visibility and aid in the recognition of these packages.

As you are aware, DOT at one time had classes ORM-A, B, C, D and E for certain hazardous materials. Classes ORM-A, B, C and E have been eliminated and or reclassified to other recognizable harmonized hazard classes. We are not aware of any problems or confusion since those changes were made in the DOT regulations.

FedEx Express recommends PHMSA eliminate 49 CFR 173.144 class Other Regulated Material-D (ORM-D) and have these materials assigned to class 9 in accordance with other world wide recognized regulations. We contend public safety will be enhanced for the carriage of these items by all modes of transportation. Objection to this recommendation should be minimal. FedEx Express notes that freight with class 9 labels have routinely moved by ground without any confusion or problems. As an example, Dry Ice shipments transported by air and subsequently delivered by ground. Note- we are not recommending that these materials, once reclassified as class 9 be further regulated by ground than they currently are.

FedEx Express appreciates the opportunity to make this recommendation for change in the regulations. If you should have any questions concerning this recommendation or comments, please contact me or David Littlejohn, Corporate Safety Advisor, at (901) 434-9567.

Think Safety, Act Safely, Be Safe,



Scott A. Mugno
Managing Director
Corporate Safety, Health and Fire Prevention
FedEx Express